# TIPPECANOE COUNTY BOARD OF COMMISSIONERS REGULAR MEETING MARCH 19, 2001

The Tippecanoe County Commissioners met on Monday, March 19, 2001 at 9:00 A.M. in the Tippecanoe Room in the County Office Building. Commissioners present were: President Ruth E. Shedd, Vice President John L. Knochel, and Member KD Benson; Auditor Robert A. Plantenga, Commissioners' Assistant Jennifer Weston, County Attorneys Thomas H. Busch and David W. Luhman, and Secretary Pauline E. Rohr.

President Shedd called the meeting to order and led the Pledge of Allegiance.

#### APPROVAL OF MINUTES

• Commissioner Knochel moved to approve the March 5, 2001 minutes as distributed, seconded by Commissioner Benson; motion carried.

#### APPROVAL OF CLAIMS

Upon the recommendation of Commissioners' Assistant Weston, Commissioner Benson moved to approve the Claims for the
periods ending March 9, 2001, March 16, 2001, and March 19, 2001 with no exceptions, seconded by Commissioner Knochel;
motion carried.

### SUBDIVISION VARIANCE: S-3042: Aberdeen Ridge Subdivision

Representing the petitioner, Attorney Joe Bumbleburg requested a variance to waive the required half-width improvement to the Concord Road frontage. Mr. Bumbleburg said there is no pavement north or south of this frontage that is only 450' long. He said the road is flat and there are adequate acceleration and deceleration lanes into the subdivision. No concerns have been expressed by the County Highway Department.

 Commissioner Knochel moved to approve the variance for Aberdeen Ridge Subdivision, seconded by Commissioner Benson; motion carried.

#### CHANGE ORDER #4: County Morgue Project: Secretary Jane Haan

Mrs. Haan requested approval of Change Order #4 presented by Arc Design for a total increase of \$5,923.00 for various changes to the contract. She said they should be able to move into their space at the 639 Building by March 26, 2001.

 Commissioner Knochel moved to approve Change Order #4 for an increase of \$5,923.00, seconded by Commissioner Benson; motion carried.

Commissioner Knochel requested that Dr. Avolt and Mrs. Haan schedule an open house for the new Morgue with the Commissioners' Office.

## HIGHWAY: Executive Director Mark Albers

## **AWARD BID: Bituminous Materials**

Since the bids received from Asphalt Materials, Inc. American Paving & Asphalt Inc., Rieth-Riley Construction Co., Inc., and Milestone Contractors L.P. were so close in price, Mr. Albers recommended awarding the Bituminous Materials Bid to all bidders.

• Commissioner Knochel moved to accept Mr. Albers recommendation and award the bid for Bituminous Materials to all four (4) bidders, seconded by Commissioner Benson; motion carried.

## WARRANTY DEEDS: Kirkpatrick Ditch Project #99-550

Mr. Albers submitted for acceptance two (2) Warranty Deeds for Project #99-550, Kirkpatrick Ditch Bridges.

Key #146-04800-0098: A part of the E ½ of the SW ¼ of Sec. 10, Twp. 22 N, R 4 W of the 2nd Principal Meridian,

Key #146-04800-0109: A part of the SE ¼ of Sec. 10, Twp. 22 N, R 4 W of the 2nd Principal Meridian, Wea Twp.,

from DF Properties, LLP (Constance M. and Gary G. Standiford).

Wea Twp., from DF Properties, LLP (Constance M. and Gary G. Standiford).

 Commissioner Knochel moved to approve the Warranty Deeds for the Kirkpatrick Ditch Project #99-550, seconded by Commissioner Benson; motion carried.

## REIMBURSABLE UTILITY AGREEMENTS: Kirkpatrick Ditch Project

Mr. Albers presented Reimbursable Utility Agreements for relocation of utilities along Concord Road with Tipmont REMC in the amount of \$13,593.65 for electric relocation for bridge work and with Indiana Gas Co., Inc. in the amount of \$111,171.21 to relocate approximately 700' of 12" steel pipe. Both relocations are for the Kirkpatrick Ditch Project.

• Commissioner Knochel moved to approve the Reimbursable Utility Agreements with Tipmont REMC and Indiana Gas Co., Inc., seconded by Commissioner Benson; motion carried.

# CERTIFICATES OF INSURANCE

The following Certificates of Insurance were presented for the record:

- Cincinnati Insurance Co, Cincinnati Casualty Company for C & C Trenching Inc.
- ◆ Hoosier Insurance Co for Citation Homes, Inc.
- ◆ Citizens Insurance Co of Amer., Interstate Insurance Co., Carolina Casualty for Whitley Mobile Home, Inc., Whitley Mobile Home Park LLC, Starlite Estates LLC

♦ Indiana Insurance Company for W. H. Long Enterprises, Inc. Liberty Mutual Insurance Companies for Morgan Drive Away Inc.; TDI Inc.; Transamerica Carriers Ins.; Transit Homes; Morgan First Class Transport

#### PUBLIC HEARING: Jail Expansion

President Shedd announced that the public hearing regarding the Jail expansion will be delayed, but she invited anyone who came today to speak on this subject to come forward.

Bob Miller, 3638 Stone Valley Dr., Laf.: Mr. Miller serves as Chairman of the Lafayette/Tippecanoe County Jail Building Authority that built the current jail. He said the current jail was built because the "old" jail located at 629 N. 6th Street was too small. Instead of waiting for a federal mandate, which he said is always more expensive, they purchased sufficient land and built a jail that, by design, could be expanded. Although they projected the capacity would be sufficient for twenty (20) years, Mr. Miller said they did not forsee the growth in Tippecanoe County and Purdue University in only ten (10) years. He said the Commissioners can expand the jail now to meet the demand or wait for a federal mandate.

Attorney Luhman said the use of the Lafayette/Tippecanoe County Jail Building Authority that was created to construct the jail has been very effective. He said it has been an extraordinary effort by the volunteer members who have served since 1986. Mr. Luhman expects a similar mechanism will be used to construct the expansion.

• Commissioner Benson moved to table the Public Hearing until April 2, 2001, seconded by Commissioner Knochel; motion carried.

#### CONTRACT: Jail Expansion: Schenkel Shultz

The contract with Schenkel Shultz is for the Jail Expansion Project that shall consist of adding a new cell block to the existing facility, adding a new 100 person capacity booking and medical area, renovating the existing kitchen, renovating administrative office areas, and renovating miscellaneous areas of the existing building.

Attorney Luhman stated that the contract is in the proper form and noted the revisions:

- Compensation for Basic Professional Service shall be 6% of the Construction Cost.
- Schenkel Shultz shall complete the first Seventy-Five percent (75%) of the Project by June 13, 2001 or be penalized Two Hundred & 00/100 dollars (\$200) per day.
- Commissioner Knochel moved to approve the Contract with Schenkel Shultz for expansion of the County Jail, seconded by Commissioner Benson; motion carried.

#### **CONSTRUCTION MANAGER**

Commissioner Benson asked if the Commissioners should consider hiring a Construction Manager since they do not possess this type of expertise. She said several firms that offer this service have spoken to the Commissioners. President Shedd thought hiring such a person would be beneficial. Commissioner Knochel agreed and said it will be helpful to the Commissioners to have someone attend to the construction details.

• Commissioner Benson moved to approve hiring Kettelhut Construction, Inc. to serve as Construction Manager for the Jail Expansion Project, seconded by Commissioner Knochel.

Commissioner Knochel asked Mark Meyer with Kettelhut Construction to explain the advantages of hiring a Construction Manager.

Mr. Meyer said Kettelhut will establish a team to work for the County on an everyday basis which puts the Owner, Architect, and Construction Manager on a level playing field. A Construction Manager watches for constructability issues, value engineering, scheduling related to the project's budget, and safety concerns. The Construction Manager monitors access to the site during the various construction phases.

• The motion carried.

## PROPOSALS: Geotechnical Exploration & Survey: Jail Expansion

Schenkel Shultz received proposals for providing survey and geotechnical exploration services at the Tippecanoe County Jail Project.

• Upon the recommendation of Schenkel Shultz, Commissioner Benson moved to approve proposals from Alt & Witzig Engineering for Geotechnical Exploration and Engineering Vision, Inc. for Survey, seconded by Commissioner Knochel; motion carried.

## ADDITION/CHANGE TO PERSONNEL POLICY & MANUAL: Information Services Director Dan Gentry

Director Gentry submitted the proposed revision to the Tippecanoe County Computer Usage and Security Policy for the Commissioners' consideration. He said the revised Policy has been approved by the Information Services Management Board and requested the County Attorney to check the Policy for duplications and to incorporate it into the current County Personnel Policy.

## CERTIFICATE OF APPRECIATION: Dan Gentry

President Shedd presented Mr. Gentry with a Certificate of Appreciation for his fifteen (15) years of service in the Tippecanoe County Information Services Department. Mr. Gentry is leaving to take a position with Purdue University.

Commissioner Knochel credited Mr. Gentry with many of the tremendous changes have occurred in the Information Services Department and the increased number of services it provides. Mr. Gentry responded that a good staff helped the IS Department move forward.

Commissioner Benson noted there has been a huge change in technology in the past fifteen (15) years. She said Tippecanoe County is a leader in the State because of Mr. Gentry's leadership.

## SUMMARY: Public Meetings re: Courthouse Security Issues

Attorney Busch read the Summary:

(quote)

Courthouse Security Issues:

At our Meeting of September 18, 2000, the Commissioners voted to oppose the August 30, 2000 Special Order of Judge Melichar which mandated certain security measures be implemented at the County Courthouse by January 1, 2001. The matter is now in litigation with a court date of June 4, 2001. The Commissioners did agree to hold additional public meetings to address the Courthouse security issues, specifically to solicit further input to determine if the decision to oppose the mandate made on September 18, 2000 was correct and to determine if any additional security measures should be taken at this time.

Three separate special meetings were scheduled to address these issues. The meetings were set on different days of the week and at various times during the day so that every person who wanted an opportunity to address the issues could attend at least one of the meetings. Specifically the meetings were set for Monday, February 12, at 5:00 p.m.; Wednesday, February 21, at 9:00 a.m.; and Monday, February 26 at 7:00 p.m.

Public Notice of each of the meetings was published. In addition, the Commissioners sent out nearly 100 letters, inviting various members of the community to attend one or more of the special meeting to provide any input on the issues. Special invitations were sent to:

Each of the Judges, including Judge Melichar, and the Magistrate

Clerk

Members of the Voter Registration Board

Members and Employees of the Election Board

Public Defenders' Office

Prosecutor

Chief Probation Officer

Chief Juvenile Probation Officer

Attorney for the CASA's

Sheriff

Chief Security Bailiff

County Council

President of the Tippecanoe Bar Association

Executive Director of the Chamber of Commerce

Executive Director of the Greater Lafayette Progress

Bill Haan, Executive Director of the Indiana Association of County Commissioners

Matt Books, Executive Director of the Association of Indiana Counties

All Lawyers in Tippecanoe County (in their boxes at the Courthouse)

Mayor Heath

Mayor Margerum

Minutes of each of the public meeting have been prepared and approved. In addition, each of the meetings were recorded and the recordings have been transcribed.

The Commissioners also heard from some Judges in Executive Session. The Commissioners have heard and will consider those comments as a part of the decision making process with regard to any further action taken on these issues.

Many persons stated their position regarding Judge Melichar's Special Order. These included:

The Commissioners received letters or public testimony from twelve public officials. The following public officials spoke in favor of the mandate:

Joe Hooker, Chief Probation Officer;

Norman Posto, Deputy Probation Officer;

Jerry Bean, Tippecanoe County Prosecutor (although Mr. Bean and Mr. Hooker both stated that they personally felt safe and did not have any problem with leaving the building security as it is);

The following public officials spoke against the mandate:

Betty Michael, Tippecanoe County Clerk,

Linda Phillips, Republican Voter Registrar (who reported that the Democratic Registrar, Nora Jarmon, also opposed the mandate);

Ellie Mlynarik, Wabash Township Assessor;

Don Johnson, Judge, Superior Court;

Dave Byers, County Councilman;

Jan Ermel, Employee, Superior Court No. 2;

Jeff Kemper, Tippecanoe County Councilman;

The following attorneys spoke in favor of the mandate:

John Burgett

Kirk Freeman

The following attorneys spoke against the mandate:

Kent Moore

Kenneth Weller

Patti Truitt

Brent Clary

Mike Sum

Mike Dowler

Joe Bumbleburg

Les Meade, speaking on behalf of the Bar Association.

Mr. Meade reported that the Bar Association passed a resolution by a unanimous vote of the twenty-three members present, two abstaining, to oppose Judge Melichar's Special Order

Three citizens spoke or wrote in favor of the mandate. Twenty-two citizens spoke or wrote opposing the mandate. Among those opposing the mandate were:

Mike Brooks of Greater Lafayette Progress; Linda Copas of Stallard and Schuh; Dana Smith of the Chamber of Commerce;

Hubert Yount, former County Commissioner;

Mary Finnegan, Citizens for Civil Rights;

Bill Haan, former Commissioner and Executive Director of the Indiana Association of County Commissioners.

The Judges in general did not want to get involved in the situation. Judge Johnson spoke publicly opposing the mandate. Judge Zeman spoke publicly supporting the mandate. Judge Morrissey and Magistrate Fountain authorized the Commissioners to state that they did not want the courthouse closed down to one door. The other judges are still trying to stay off the record. However, Judge Donat has said that he thought that the decisions concerning courthouse security should be left to the Sheriff Judge Rush does not want to lose her courtroom deputy and, although she would appreciate increased security, is willing to leave the decision to the Commissioners.

In general, there was significant appreciation for the security measures already implemented by the Commissioners. In particular, there were many positive comments regarding the additional bailiffs that are made available to the courts and other offices in the Courthouse. There were strong statements by some that no additional security measures should be taken if the tradeoff is to reduce the number of armed bailiffs in the courthouse.

Two of the strongest comments against the mandate came from the Clerk of the Circuit Court, who stated that it would be almost impossible for her office to function if all of the doors were closed as ordered by the mandate, and Linda Phillips of Voter Registration, who believed that the mandate would interfere with voter registration and voting, especially by absentee ballot.

There were numerous other comments regarding the concern for public access, the concern for higher taxes and a desire by some to have the Commissioners or the Sheriff rather than the Judge decide the issues.

Comments in support of additional security measures were not directed at the Commissioners' decision to oppose the Special Order. Some believed that the measures implemented to date by the Commissioners were very beneficial, but they wanted even more security. They believed that closing all of the doors but one would help to eliminate the risk of any guns in the Courthouse. There was a least one person who spoke strongly against any exceptions to the security measures for lawyers or employees, which was a part of Judge Melichar's Special Order.

The record should also reflect that the Commissioners have been provided and have reviewed surveys of security measures that have been undertaken in other counties. These summaries show that some of the northern counties of Indiana have adopted security measures that require all persons entering the courthouse to enter into a single entrance and through a metal detector. The Commissioners believe that each of the counties that have adopted these security measures have done so by vote of the commissioners after public input and not by judicial mandate. Most of the other counties in the State do not have these security measures, including many counties that are comparable to or larger than Tippecanoe county, such as Hamilton County, Marion County, and LaPorte County.

The Commissioners have also been advised concerning Incident Reports since 1993 from the Tippecanoe County Sheriff. These incident reports show that there have been no serious weapons violations in the Courthouse during that period.

After all of the additional information, the Commissioners believe that they should take a public position on the Special Order and the need for additional security at the Courthouse. Regardless of the decision, all of those who work in or regularly visit the Courthouse should know that the Commissioners do think the issue of security is very important, just as it is at each of the other county facilities. We will continue to monitor the situation and do what we believe is best for the citizens of Tippecanoe County. And we will always welcome additional information or input on the issue.

(unquote)

President Shedd if anyone wished to speak further on this issue.

<u>Joe Henderson</u>, 5713 N 225 W, W. <u>Laf</u>.: Mr. Henderson said he attended the Public Hearing held on Wednesday, February 21, 2001 when two members of the Probation Department spoke in favor of the mandate. Since they are fearful for their welfare and safety, Mr. Henderson suggested moving the Probation Department to the Jail.

Commissioner Knochel said that is an interesting concept the Commissioners have not considered. Although such a move would increase the size and cost of the Jail expansion, he said this is something that could possibly be looked at. President Shedd noted that locating the Probation Department at the Jail would hinder easy access to the courts with their clients.

After three (3) extensive Public Hearings and one (1) long Mediation Session, Commissioner Knochel thinks further Mediation is fruitless. In his opinion, the public wants the Commissioners to continue to fight the mandate.

Attorney Busch said Judge Melichar has attended two Executive Sessions but, although invited, has attended no public meetings regarding this issue. Mr. Busch said he is not aware of any incidents in courthouses around the State that would cause these security measures except the bombing incident at the Howard County Courthouse in Kokomo and the gun incident at the Hamilton County Courthouse in Noblesville. He doesn't think this is a significant number to cause the measures in the mandate.

President Shedd commented that a bomb does not have to be place inside the Courthouse to cause damage. Closing the doors to the Courthouse will not prevent a bomb being placed outside the building. If Judge Melichar's mandate is enforced, it will take Bailiffs from the courtrooms which may cause other judges to issue mandates.

Commissioner Benson said the public thinks the Courthouse should remain open.

Commissioner Knochel moved that the Commissioners move forward in continuing to oppose Judge Melichar's mandate.

Attorney Busch informed the Commissioners that a Motion to Dismiss will be filed today on the grounds that Judge Melichar failed to follow proper procedures and the mandate exceeds his power.

• The motion carried.

> Attorney Busch left the meeting.

## UPDATE: Tippecanoe Youth Center Task Force: Chairman Nancy Hathaway

Ms Hathaway said Tippecanoe County does not have a proper placement for youth that are delinquent or abused and neglected. There is no intervention for youths with threatening tendencies nor are there evaluation services for placement of juveniles. To provide long term results, Tippecanoe County needs to proved a continuum of care under one (1) jurisdiction (Juvenile Judge). Ms Hathaway said Task Force member Jim Napier has updated the Feasibility Study for a juvenile center that was conducted in 1993, but no one on the Task Force has the expertise to assemble the information and make a recommendation. The Task Force is asking the Commissioners to initiate an RFP (Request for Proposal) for a Feasibility Study that will be conducted by an expert (not an architect) on juvenile centers to make a recommendation to the Commissioners. She thinks the Task Force can apply for a grant of approximately \$50,000.00 to fund the study.

Commissioner Knochel asked why an architect could not provide this service. Ms Hathaway responded that they want someone with juvenile experience to help the County provide a continuum of care. Attorney Luhman said the Task Force first needs some to identify needs and programs to fill those needs in the County rather than someone to design a building.

President Shedd said forming a regional district would help with the operation of a juvenile facility. Ms Hathaway agreed but said the County doesn't want to overbuild a facility if other area counties don't send their youth.

Commissioner Knochel suggested asking Grant Administrator Don Morrison to meet with the Commissioners to discuss the grant process for a juvenile facility.

President Shedd said the County has too many commitments to fund a juvenile facility at this time. She pointed out that a study conducted now will be outdated in four to five years when funding may be available. President Shedd suggested talking to other counties to find out who they used as a consultant to possibly avoid having to do a RFP.

Ms Hathaway requested a budget for the Task Force and to be placed on the County's Web site to help build public support.

### SECOND AMENDMENT TO COMPENSATION AGREEMENT: Sheriff

Attorney Luhman explained that the Commissioners and Council annually approve the Sheriff's Compensation Agreement. This second amendment adjusts his salary to \$97,594.00, the amount approved for 2001 by the County Council.

(quote)

#### SECOND AMENDMENT TO COMPENSATION AGREEMENT

WHEREAS, the parties hereto entered into a Compensation Agreement for a period of one year, ending December 31, 1999; and

WHEREAS, Paragraph 5 of said Agreement provides for a continuance of said Agreement for additional one year periods; and

WHEREAS, the parties have previously continued said Agreement for successive one year periods through December 31, 2000, and

WHEREAS, the parties hereto desire to continue said Agreement for a period of one year, commencing January 1, 2001, and ending December 31, 2001; and

NOW, THEREFORE, in consideration of the mutual covenants, agreements and conditions contained herein;

## IT IS AGREED THAT:

- 1. The Compensation Agreement between the parties for compensation of David R. Murtaugh as Sheriff of Tippecanoe County, Indiana, hereby is extended for the period from January 1, 2001, to December 31, 2001.
  - 2. Paragraph 10 of said Compensation Agreement is amended to state as follows:
    - "11. The annual salary to be paid Murtaugh shall be Ninety-seven Thousand Five Hundred Ninety-four and no/100 Dollars (\$97,594.00) for fiscal year 2001."
- 3. Except as amended by this Agreement, all provisions of the Compensation Agreement shall remain in full force and effect during the year 2001.
  - 4. This Amendment shall be effective as of January 1, 2001.

IN WITNESS WHEREOF, the partie	es hereto set their respective hands this - day of, 2001
TIPPECANOE COUNTY SHERIFF	TIPPECANOE COUNTY COUNCIL
David R. Murtaugh Sheriff of Tippecanoe County	David Byers, President
4	Connie Basham, Vice President
	Margaret K. Bell
	Ronald L. Fruitt
	Kathy Vernon

	Jeffrey Kessler		
	Jeffrey A. Kemper		
	BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY		
ATTEST:	Ruth Shedd, President		
Robert Plantenga, Auditor	John Knochel, Vice President		
APPROVED AS TO FORM:	KD Benson, Member		
David W. Luhman Tippecanoe County Attorney			
(unquote)			
Commissioner Knochel moved to approve seconded by Commissioner Benson; moti	e the Second Amendment to the Compensation on carried.	Agreement for 2001 for the Sheriff,	
ORDER 2001-01-CM: Establishing McCarty Lane TIF			
Attorney Luhman read Order 2001-01-CM			
(quote)	ORDER NO. 2001-01-CM		
BOARD OF COMMISSIONERS  TIPPECANOE COUNTY, INDIANA  REGARDING THE ESTABLISHMENT  OF THE MCCARTY LANE-SOUTHEAST INDUSTRIAL EXPANSION			
WHEREAS, the Tippecanoe County declaratory resolution ("Declaratory Resolution Development Area as an economic development 2001, after conducting a public hearing.		Industrial Expansion Economic	
WHEREAS, IC 36-7-14-41(c) requires that the determination that a geographic area is an economic development area be approved by the Board of Commissioners of Tippecanoe County; and			
WHEREAS, the Board of Commissioners reviewed the Declaratory Resolution as confirmed, the Commission's Economic Development Plan approved by the Declaratory Resolution as amended and confirmed as so amended by the Commission and the written order of the Tippecanoe County Area Plan Commission regarding the Declaratory Resolution and the Plan;			
NOW, THEREFORE, BE IT ORDERED by the Board of Commissioners of Tippecanoe County, Indiana that:			
The Board of Commissioners an economic development area within its bour Economic Development Area as described in	· · · · · · · · · · · · · · · · · · ·		
2. The establishment of an econ Expansion Economic Development Area as d hereby approved.	omic development area in the area known as t escribed in the Declaratory Resolution and in	•	
3. This Order shall be effective	from and after passage.		
PASSED AND ADOPTED by the Boby a vote of ayes and nays.	oard of Commissioners of Tippecanoe County	, Indiana, this day of, 2001,	
	Ruth Shedd, President		
	John Knochel, Vice President		
	KD Benson, Member		
ATTEST:			

Robert A. Plantenga, Auditor

(unquote)

Commissioner Knochel commented that numerous hours have gone into the development of this Economic Development Area and the Interlocal Agreement between the County and the City of Lafayette to share proceeds.

• Commissioner Knochel moved to approve Order 2001-01-CM regarding the establishment of the McCarty Lane-Southeast Industrial Expansion Economic Development Area, seconded by Commissioner Benson; motion carried.

#### **NEW BUSINESS**

Commissioner Benson said the Highway Department is investigating the cost of applying Soy Bean Oil sub-stock to County gravel roads for dust control on a trial basis. This may be a market for Soy Beans growers and she understands it is environmentally friendly.

There was no objection to the Tippecanoe Child Abuse Prevention Council's request to place blue ribbons outside the Courthouse for Child Abuse Prevention Month.

#### REPORTS

Reports for the Clerk of the Circuit Court and Treasurer are on file in the Commissioners' Office for review.

#### **PUBLIC COMMENT**

None

#### ADJOURNMENT

• Commissioner Knochel moved to adjourn, seconded by Commissioner Benson; motion carried.

Robert A. Plantenga, Auditor

BOARD OF COMMISSIONERS OF THE COUNTY OF TIPPECANOE

Ruth E. Shedd, President

John L. Knochel, Vice President

KD Benson, Member

ATTEST:

Robert A. Plantenga, Auditor